

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

LYNSEY ANN PORTER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. <u>3:24cv909</u>
)	
BLUE RIDGE BANKSHARES, INC. d/b/a)	
"BLUE RIDGE BANK", and G. William Beale, <i>In His</i>)	
<i>Individual Capacity</i> ,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendants Blue Ridge Bankshares, Inc. d/b/a "Blue Ridge Bank" (hereinafter "Blue Ridge Bankshares") and G. William Beal ("Mr. Beale"), by their counsel, pursuant to 28 U.S.C. §§ 1332 and 1441, hereby remove this action from the Circuit Court of the City of Richmond, Virginia, to the United States District Court for the Eastern District of Virginia, Richmond Division, and as grounds therefor state as follows:

1. Defendant Blue Ridge Bankshares is, and at all times has been, a corporation organized under the laws of the Commonwealth of Virginia with its principal place of business in Virginia.
2. Defendant G. William Beale is a resident and citizen of the Commonwealth of Virginia, and no other State, and this was the case at the time the lawsuit was filed.
3. Plaintiff Lynsey Ann Porter ("Plaintiff") is a resident and citizen of the State of Florida, and no other State, and that was the case at the time the lawsuit was filed. Plaintiff lives in Fort Lauderdale, Florida.
4. Jurisdiction is vested in this Court pursuant to 28 U.S.C. §§ 1332(a)(1) and 1441.

5. This civil action commenced in the Circuit Court of the City of Richmond, Virginia, on or about December 20, 2024, with the filing of a Complaint, styled as *Lynsey Ann Porter, Plaintiff, v. Blue Ridge Bankshares, Inc. d/b/a "Blue Ridge Bank" and G. William Beale, In His Individual Capacity, Defendants*, Civil Action No. CL24005542-00 (hereinafter, the "Civil Action").

6. None of the Defendants have been served, properly or in any manner, with a copy of the Summons and Complaint. Neither of the Defendants received or saw a copy of the Complaint until this Notice of Removal was filed.

7. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint from the Civil Action that was obtained by counsel for Defendants via remote access subscription is attached hereto and made a part hereof as **Exhibit A**. No other process, pleadings, orders, or other papers have been entered by the Circuit Court of the City of Richmond or served on Defendants.

8. This Notice of Removal is timely and properly filed pursuant to 28 U.S.C. § 1446(b), and it has been filed within thirty (30) days of receipt by counsel for Defendants (which receipt was not via valid or formal service of process) of a copy of the initial pleading, i.e. the Complaint, purporting to set forth the claim for relief upon which the Civil Action is based.

9. The basis for removal is original jurisdiction pursuant to 28 U.S.C. § 1441(a) coupled with the application of 28 U.S.C. § 1441(b) in this case given that none of the Defendants have been properly joined and served with process in this lawsuit.

10. This Court has original jurisdiction over the instant matter because the controversy between Plaintiff and Defendants involves citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. § 1332(a)(1). The Court has diversity jurisdiction because:

- a. Plaintiff is a citizen of the State of Florida;
- b. Blue Ridge Bankshares and Mr. Beale are both citizens of the Commonwealth of Virginia and have not been properly joined and served as of the date and time of this Notice of Removal, as required under 28 U.S.C. § 1441(b), which means that Defendants are not barred from removing this case based on their Virginia citizenship. *See Hanson v. Depot LBX, Inc.*, 2024 WL 4730552 (W.D. Va. Nov. 8, 2024) (permitting snap removal); *Androus v. Androus*, 2024 WL 4008653 (E.D. Va. Aug. 30, 2024) (same); *Spigner v. Apple Hosp. REIT, Inc.*, 2022 WL 1451397 (E.D. Va. Mar. 1, 2022) (same). In other words, the forum defendant rule does not apply to bar or prevent removal of this case to this Court.
- c. The amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. In this lawsuit, Plaintiff claims that she experienced unlawful retaliation and wrongful discharge, giving rise to two causes of action. In Count I, Plaintiff asserts a claim under the Virginia Whistleblower Protection Act, Va. Code § 40.1-27.3 (“VWPA”). In Count II, Plaintiff brings a claim for common law wrongful discharge under *Bowman v. State Bank of Keysville*, 229 Va. 534 (1985). Under these two causes of action, if Plaintiff succeeds, she may recover damages, including punitive damages, as well as attorneys’ fees, the combination of which would exceed \$75,000, exclusive of interest and costs. Indeed, Plaintiff claims damages in the ad damnum clause of the Complaint in the amount of \$10,000,000 (*See Ex. A*, at p. 13). The amount sought in the Complaint is generally dispositive as to the amount

in controversy. *Choice Hotels Intern., Inc. v. Shift Hospitality, L.L.C.*, 491 F.3d 171, 176 (4th Cir. 2007) (observing that “[t]he black letter rule “has long been to decide what the amount in controversy is from the complaint itself, unless it . . . is not claimed in good faith””) (citation omitted); *see also Holt v. Food Lion Grocery Store of Chester*, No. 3:18cv503, 2019 WL 112788, at *3 (E.D. Va. Jan. 4, 2019) (same). The ad damnum clause of the Complaint establishes that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

11. A Notice of Filing of Notice of Removal is being filed contemporaneously with the Clerk of the Circuit Court of the City of Richmond, Virginia. *See Exhibit B*. Defendants will also promptly give Plaintiff written notice of the filing of this Notice of Removal.

WHEREFORE, Defendants Blue Ridge Bankshares, Inc. d/b/a “Blue Ridge Bank” and G. William Beale hereby request that this action be removed to this Court.

**BLUE RIDGE BANKSHARES, INC., and
G. WILLIAM BEALE**

By /s/ David E. Constine, III
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CERTIFICATE OF SERVICE

I hereby certify that on this the 30th day of December 2024, I electronically filed the foregoing using the CM/ECF system, and further certify that a true and correct copy of the foregoing was sent via first class mail to the following:

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By: /s/ David E. Constine, III